

Press Notice

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Criminal Asset Recovery: Joint Thematic Review of Restraint and Confiscation Casework

Three criminal justices inspectorates HM Crown Prosecution Service Inspectorate (HMCPSI) HM Inspectorate of Constabulary (HMIC), and HM Inspectorate of Court Administration (HMICA) have today published their joint thematic review of Criminal Asset Recovery Restraint and Confiscation Casework.

The review found that a great deal of work has been done by the criminal justice agencies since the implementation of the Proceeds of Crime Act 2002 to “mainstream” asset recovery into the day to day work of police officers, prosecutors and court staff (who are responsible for enforcement) at all levels. However, although performance has improved considerably there is more work to be done to optimise the effectiveness of the regime. There is considerable scope to increase the number and value of confiscation orders and to reduce the delay and wastage which is part of the system.

Main findings

The amount of criminal assets recovered has increased from £21 million in 2001-02 to £135 million in 2007-08. However, it is unlikely that the more ambitious target of £250 million for 2009-10 will be achieved. There are two main reasons for this:

- not all cases where restraint and confiscation may be appropriate are identified as such; and
- where there are recoverable assets these are not always identified and frozen in time.

Asset recovery still needs to be more of a routine consideration in the daily work of front-line police investigators and CPS area prosecutors. This would improve the early identification of cases with restraint and confiscation potential.

Where cases are identified, the legal tools provided to assist investigation and preservation of assets are hardly used. This reduces the overall value of confiscated assets, and the capability to meet targets.

Overall, there is a feeling among front-line staff that the identification of, and pursuit exploitation of cases is a job best left to the specialists, because it is a separate complex area of law which should not impinge on the main job of prosecuting and sentencing criminals in the conventional way, or which can safely be left until post-conviction. Inspectors do not accept this.

Other findings

- In most of the cases examined by inspectors an order was made that recovered some of the assets of the defendant but often more could have been realised.
- The commitment and skill of the specialists who make the system work is considerable. But the system overall is too dependent on their contributions.
- Considerable work has been done to train and raise the awareness of front line staff on asset recovery issues; but this has not yet been fully effective.
- Police financial investigators do not have time to stay involved in cases after a preliminary assessment, leaving an investigative vacuum during “the golden hour”, when it might be most desirable and appropriate to identify, value, and freeze any assets in the hands of the defendant;
- Links between financial investigators and the criminal investigation are less than clear in some areas, and there is an apparent lack of synchronisation between them in most cases;
- CPS prosecutors do not always provide sufficient advice on asset recovery when providing pre-charge advice;
- Information technology systems need to be further standardised, integrated, and made more effective generally;
- The delay in obtaining post conviction confiscation orders is excessive.
- Inaccuracy of the recording orders made by the courts and supporting documentation sometimes impacts on the ability to enforce.

Incorporating asset recovery activity into the everyday work of police, customs officials, and prosecutors, (necessary if the value recovered from confiscation is to grow significantly), and a move away from specialisation could dilute skills, knowledge and experience unless accompanied by significant investment.

Stephen Wooler, HM Chief Inspector of HMCPSP speaking also on behalf of Denis O’Connor, HM Chief Inspector of Constabulary, and Eddie Bloomfield, HM Chief Inspector of Court Administration had this to say:

“The skill and commitment of the specialist staff is commendable. This is the main reason why the number and value of confiscation orders has risen considerably since 2002. Even so, more could be achieved by raising awareness of the potential for criminal asset recovery amongst non-specialist frontline police officers and prosecutors. Better use needs to be made of the available legal tools to identify assets and freeze them. Unnecessary delay also needs to be reduced by the development of more efficient processes.

This press release should be read in conjunction with the report itself. This contains an integral overview which is also available separately as an executive summary.

The report and executive summary is now available to journalists on an embargoed basis by visiting the HMCPsi websites (www.hmcpai.gov.uk and www.hmic.gov.uk) which contain an embargoed section for the media. It may be accessed by using the username and password provided by email.

For further information, please contact Anisha Visram, HMCPsi Office and Media Manager, on 020 7210 1187 or 07901 856 346.

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Notes to Editors

1. This work has been undertaken as part of the Criminal Justice Chief Inspectors' (CJCI) joint inspection programme for 2007-08 and 2008-09. The CJCI Group comprises HMI of Constabulary, HM Crown Prosecution Service Inspectorate, HMI of Courts Administration, HMI of Probation and HMI of Prisons.
2. The 2009-10 joint inspection programme has been drawn up in accordance with the requirements of Part 4 of the Police and Justice Act 2006. This inspection reflects the commitment of the five criminal justice inspectorates to operate in an increasingly joined up way, and demonstrates their ability to continue to develop the capability to inspect end-to-end business processes that span two or more of the criminal justice agencies.
3. This joint review was undertaken in parallel with an HMIC inspection of asset recovery in HMRC. Some of the evidence obtained was gleaned from the HMIC inspection.
4. Under the terms of the Proceeds of Crime Act 2002, the criminal justice agencies now have at their disposal various investigative tools such as production orders and account monitoring orders, as well as restraint orders which can be obtained in the Crown Court at the beginning of criminal proceedings. Criminal cash can be seized under certain conditions and this can be held forfeit by order of the magistrates' courts.
5. The recovery of criminal assets is a key government priority for the criminal justice system, on the basis that confiscating assets and preventing money laundering stops criminals profiting from their crimes and reduces the incentives for crime and removes an important source of finance for the continued operation and expansion of criminal enterprises.
6. In October 2007, the government's Public Service Agreement 24 target was for £250m to be recovered (including by way of confiscation, cash forfeiture and civil recovery/tax) by 2009-10, out of a criminal economy estimated to be worth £15bn. However, since the baseline of £125m was established in 2006-07, performance has fallen steadily behind trajectory, and the overall target is very unlikely to be met this financial year. That said, in the last five years, and as a result of concerted efforts by the agencies, there has been an 80% increase in the value of assets removed from criminals.